

Appl. No. 10/763472
Amdt. Dated: 8 August 2005
Reply to Office action of July 8, 2005

REMARKS/ARGUMENTS

Claims 1-20 remain in this application.

Claims 15-20 are allowed with claims 15 and 20 objected to

The examiner has acknowledged that claims 3 and 10 are directed to allowable subject matter.

With regard to claims 15 and 20 examiner's objections have been addressed by amendments. Claim 15 now provides antecedence for the towing direction, and references to being typical in the art have been omitted. Antecedence for "major diameter" and "same plane" have been provided in referenced Claim 15 as well.

Claims 1,2,4-9,11,13,14 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Collado (4,211,284).

Collado discloses a disc harrow comprising a rectangular frame, a plurality of tool bars, a plurality of discs independently mounted in a staggered manner and wherein the angulations of the discs are fixed and not uniformly spaced, with a plurality of vertical breaker bars 268, retractable wheels 64,66 and a towing means 36,38 as shown in figures 2 & 4. It is noted that Collado discloses descending diameter discs in figs. 2 & 3. Concerning claim 5, the disc mounting structure is considered a spacer, Concerning claim 11, member 46 is considered a smoothing plate.

Response:

Under 35 U.S.C. 102(b) each and every element of the claim including limitations must be taught or disclosed by the cited reference. In this case *Collado* does not teach or disclose a rectangular frame as suggest by examiner, in fact the frame is trapezoidal. The disc as taught by *Collado* are all either pivotal or rotatable but not fixed. *Collado* does not teach the use of staggered disc located on a single tool bar as currently amended or teach the location of a breaker bar located directly behind each disc. There is no reason to believe that the disc as taught by *Collado* are not uniformly spaced and *Collado* makes no mention of any non-uniform spacing in the specification. Since only one sequence is shown for disc 164' and disc assembly 242 located on a single tool bar each side of center, we have no way of knowing if the spacing would be uniformly repeated or not.

According to applicant's claim 2 the disc are arranged in a row perpendicular to the towing means. *Collado* teaches pivotal angulations of the tool bars and makes no mention that it would be desirable to position the tool bars perpendicular to the towing means.

Regarding claims 4-9 *Collado* makes no mention of a spacer added to the mounting bracket to achieve stagger of the disc. Further, *Collado* makes no mention of at least a portion of the rotatable discs being replaced with fixed non-rotatable half disc, as currently amended. There is certainly no mention by *Collado* of attaching plow points to the breaker bars. *Collado* does not teach or otherwise disclose an earth leveler as currently amend in applicant's claim 9, a smoothing plate as currently claimed by claim 11 or additional duplicate harrows attached adjacent to each side of the claimed harrow and hydraulically pivotal as claimed in Claims 13 and 14.

Regarding claim 5 , examiner's comments that "*the disc mounting structure is considered a spacer*" is vague and indefinite and would certainly not be allowed in a claim without a reference to what is being spaced. *Collado* does not make such an assumption and does not designate the structure as a spacer. A spacer should at least be located and defined in the specification. Applicant does, *Collado* does not.

Regarding claim 11 examiner's Concerning claim 11, that "*member 46 is considered a smoothing plate*" is not logical. Item 46 is an "extending angle member" and does not refer to a means for smoothing anything. This is in direct contradiction of the examiner's comments under the 35 USC 103 rejection (discussed below) for claim 12 wherein examiner states that *Collado* lacks a pivotal smoothing plate.

Claim Rejections 35 U.S.C. § 103

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collado (4,211,284) in view of Petitt (3,225,839).

Collado discloses an agricultural device as described previously, but lacks a pivotal smoothing plate. *Petitt* teaches that it is known in the agricultural art for a cultivating device to use a pivotal smoothing plate 150, for smoothing the ground after cultivation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Collado by adding a pivotal smoothing plate similar to that of Petitt, to smooth the ground behind the device.

Response: A close reading of the cited reference of *Petitt* reveals no mention of a smoothing or leveling plate. The pivotal drag board 150 as taught by *Petitt* does not and can not perform a smoothing or earth leveling function as taught. Simply dragging the board over cultivated and broken earth without a means for applying weight or pressure simply allows the board to bounce over the turned earth without any material benefit. The smoothing plate and leveler assembly as taught by applicant is biased to insure constant contact with the earth. Claim 12 is dependent on Claim 11 which descends from claim 10,

which contains allowable subject matter and is thus a combination not taught or suggested by Petitt.

Since all objections and rejections have been addressed applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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